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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,382	07/02/2003	Francois G. Moore	064731.0379	3685

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BAKER BOTTS L.L.P.  
2001 ROSS AVENUE  
SUITE 600  
DALLAS, TX 75201-2980

EXAMINER
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IBRAHIM, MOHAMED

ART UNIT	PAPER NUMBER
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2144

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/25/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/25/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/612,382

Applicant(s)

MOORE ET AL.

Examiner

Mohamed Ibrahim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/11/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites the limitation "wherein the threshold parameters" in line 1. There is insufficient antecedent basis for this limitation in the claim since claim 11 depends from claim 1. For prosecution purpose, the claim is assumed to depend from claim 9.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 and 23-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As for claim 1, the claim appears to recite an abstract idea, since the claimed steps do nothing more than provide, determine and generate service, which amount to be only thoughts. The claim does not recite a result of the overridden parameters which is useful, concrete and tangible nor is there a physical transformation, so as to be available for use in a practical application.

As for claim 23, the claim is directed to a functional descriptive material and for functional descriptive material to be statutory the claim has to be embodied in an appropriate computer readable medium that is capable of producing a useful, concrete and tangible result when used in a computer system. Thus the claim the condition of it being embodied in a computer readable medium but lacks the useful, concrete and tangible result.

Independent claim 34, which is substantially same as claim 1, is rejection for the same rationale applied to claim 1.

The 101 rejections applied to independent claims also carry over to their depending claims.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones et al. (Jones), U. S. Patent 5771381.

Regarding claim 1, Jones discloses a method for provisioning a network element (see e.g. col. 4 lines 29 42 and fig. 3 element 302; network computer system); comprising:

providing a custom default file and a standard default file in a network element, the custom default file (see e.g. col. 6 lines 53-65 and also see fig. 2; default configuration file and customized configuration files are provided) comprising one or more default parameters of a same type as, but having a different value from, corresponding default parameters in the standard default file (see e.g. col. 7 lines 1-24; the customized user file is organized as a node which contains value/parameters that is unique to each user); determining service parameters for a service based on default parameters of the standard default file as modified by overriding default parameters of the custom default file (see e.g. fig. 7 and col. 7 line 57-col. 8 lines 34; applications are loaded based on each user's configuration files which contains parameters that are unique to the particular user); and generating the service based on the service parameters (see e.g. col. 7 lines 31-56; when a user logs on to the computer system, that user's profile file is loaded into local registry under the USERS node and sets the current\_USER node to indicate the current user. The node also contains).

Regarding claim 2, Jones discloses further comprising: receiving a retrieve default command of an element manager requesting the default parameters of the custom default file; and forwarding the one or more default parameters of the custom default file to the element manager in response to the retrieve default command (see e.g. fig. 2 and col. 6 lines 52-65; a default file is loaded for each user that logs on based on user identification and preference).

Regarding claim 3, Jones discloses wherein providing the custom default file further comprises storing the custom default file in a non-volatile memory of the network element (see e.g. col. 5 lines 23-32 and col. 6 lines 28-52).

Regarding claim 4, Jones discloses further comprising re-determining the service parameters for the service in response to a reloading event by: re-determining the service parameters for the service based on the default parameters of the standard default file as modified by overriding default parameters of the custom default file; and re-generating the service based on the service parameters (see e.g. col. 7 lines 31-56; when user logs on the system loads the most recently updated user's profile file and set the Current-User node to indicate the current user otherwise it loads the default user profile).

Regarding claim 5, Jones discloses wherein the reloading event comprises an event selected from the group consisting of a power-up sequence, a processor restart, a software download, and a software upgrade (see e.g. col. 10 lines 49-64 and col. 14 lines 43-61).

Regarding claim 6, Jones discloses wherein the custom default file and the standard default file are stored in disparate types of memory (see e.g. col. 5 lines 17-46).

Regarding claim 7, Jones discloses wherein the standard default file is hardcoded in

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hardware (see e.g. col. 5 lines 60-67; the default file is hardcoded).

Regarding claim 8, Jones discloses wherein the custom default file is stored as software (see e.g. col. 5 lines 23-32; user configuration file is stored).

Regarding claim 9, Jones discloses wherein the custom default file comprises default parameters of a type selected from a group consisting of threshold driven parameters and non-threshold parameters (see e.g. fig. 7 and col. 8 lines 35-55).

Regarding claim 10, the limitation of this claim has already been addressed (see claim 9 above).

Regarding claim 11, Jones discloses wherein the non-threshold parameters comprise parameters associated with a category selected from a group consisting of allow and inhibit monitoring category, allow and inhibit COMM monitoring category, initialize monitoring category, set threshold T1 clock category, edit system category, enter ethernet category, edit ethernet category, enter clock category, and edit clock category (see e.g. col. 5 lines 16-32; a choice by the user to edit and customize the system is provided).

Regarding claim 12, Jones discloses network element (see e.g. fig. 3 item 302; computer), comprising: a memory comprising a custom default file and a standard

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default file (see e.g. fig. 3 item 306 and see e.g. col. 6 lines 53-65 and also see fig. 2; default configuration file and customized configuration files are provided), the custom default file comprising one or more default parameters of a same type as, but having a different value from, corresponding default parameters in the standard default file (see e.g. col. 7 lines 1-24; the customized user file is organized as a node which contains value/parameters that is unique to each user); and a controller coupled to the memory and operable to: determine service parameters for a service based on default parameters of the standard default file as modified by overriding default parameters of the custom default file (see e.g. fig. 7, and fig. 3 item 304 also col. 7 line 57-col. 8 lines 34; applications are loaded based on each user's configuration files which contains parameters that are unique to the particular user); and generate the service based on the service parameters (see e.g. col. 7 lines 31-56; when a user logs on to the computer system, that user's profile file is loaded into local registry under the USERS node and sets the current\_USER node to indicate the current user. The node also contains).

Regarding claim 13, the limitations of this claim have already been addressed (see claim 2 above).

Regarding claim 14, the limitation of this claim has already been addressed (see claim 3 above).

Regarding claim 15, the limitations of this claim have already been addressed (see



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claim 4 above).

Regarding claim 16, the limitation of this claim has already been addressed (see claim 5 above).

1 Regarding claim 17, the limitations of this claim has already been addressed (see claim 6 above).

Regarding claim 18, the limitation of this claim has already been addressed (see claim 7 above).

Regarding claim 19, the limitation of this claim has already been addressed (see claim 8 above).

Regarding claim 20, the limitations of this claim have already been addressed (see claim 9 above).

Regarding claim 21, the limitation of this claim has already been addressed (see claim 10 above).

Regarding claim 22, the limitations of this claim have already been addressed (see claim 11 above).

Regarding independent claim 23, the limitations of this claim have already been addressed (see claim 1 above).

Regarding claim 24, the limitations of this claim have already been addressed (see claim 2 above).

Regarding claim 25, the limitation of this claim has already been addressed (see claim 3 above).

Regarding claim 26, the limitations of this claim have already been addressed (see claim 4 above).

Regarding claim 27, the limitation of this claim has already been addressed (see claim 5 above).

1 Regarding claim 28, the limitations of this claim has already been addressed (see claim 6 above).

Regarding claim 29, the limitation of this claim has already been addressed (see claim 7 above).

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Regarding claim 30, the limitation of this claim has already been addressed (see claim 8 above).

Regarding claim 31, the limitations of this claim have already been addressed (see claim 9 above).

Regarding claim 32, the limitation of this claim has already been addressed (see claim 10 above).

Regarding claim 33, the limitations of this claim have already been addressed (see claim 11 above).

Regarding independent claim 34, the limitations of this claim have already been addressed (see claim 1 above).

Regarding independent claim 35, the limitations of this claim have already been addressed (see claims 1-11 above).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a list of relevant prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Ibrahim whose telephone number is 571-270-1132. The examiner can normally be reached on Monday through Friday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MI/ *MS*

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